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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/168930

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 24, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on December 8, 2015, by telephone. Hearings set for October 13 and November 10, 2015 were rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined FS after petitioner started a new job.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W. Vliet Street  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received \$385 FS in September, 2015. She reported in September that she was returned to work as a bus driver, and she provided verification from the employer that she would be working 16.5 hours per week at \$13.77 per hour. The agency entered those figures and budgeted

the earned income. By a notice dated September 14, 2015 the agency informed petitioner that FS would be reduced to \$22 effective October 1, 2015.

3. In October the agency noted through the child support computer system that petitioner was receiving child support. The agency averaged petitioner's support payments over the prior few months and added the average to the FS budget. By a notice dated October 14, 2015 the agency informed petitioner that FS would end November 1, 2015 because income was over the limit.
4. The agency issued \$272 FS for December because social security payments to petitioner's children ended. Petitioner's earned income also was reduced.
5. Petitioner appealed the reduction in FS prior to October 1, 2015. Benefits were ordered to be continued pending this decision.

### **DISCUSSION**

FS allotments are based upon a household's prospective income, meaning that the agency must estimate the household's income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Income from the past 30 days typically is used to make the estimate, but if income fluctuates, the worker must determine a monthly average using prior months' income. 7 C.F.R. §273.10(c)(1) and (2); Handbook, App. 1.2.4.2. If new employment is reported the agency will use the employer's estimated hours and wages to determine monthly income. Handbook, App. 1.2.4.2.

In this case the agency used the employer's statement to determine October income. At that point the statement was the only means by which the agency could estimate October income. When the child support was added the agency used an average because it fluctuated.

Petitioner brought some pay stubs with her to the hearing. Clearly in October there were reductions in hours, but in September, when the budgeting was done, the 16.5 hours per week appears to have been accurate. Petitioner did not bring the September pay stubs, but comparing the year-to-date from June 19 (a pay stub she did provide), with the year-to-date on the October 2 and October 9 stubs, it appears that petitioner earned \$900 in September. That amount divided by \$13.77 per hour comes out to approximately 20 hours per week. Assuming there were some bonus earnings in September (as there were in October), the hours would be somewhere between 16 and 20 per week.

I conclude, therefore, that when the earned income was calculated, it was done correctly. Petitioner stated on her appeal that the income numbers "are not accurate." That is not a sufficient statement for the agency to get the idea that she was working less hours (and in September, when petitioner filed this appeal, she was not working less hours). I checked case comments and the first note that mentions petitioner reporting reduced hours was November 24, 2015. At that point the agency reviewed petitioner's earnings with her for future months' FS.

I conclude that the reduction of FS October 1 was correct, as was the discontinuance November 1 when child support was added. Petitioner now is expected to receive \$272 in FS for December, and a review of the budget shows that the agency has reduced her earned income from \$977 monthly to \$805 monthly. At this point I can find no errors with the handling of petitioner's case.

### **CONCLUSIONS OF LAW**

The agency correctly reduced petitioner's FS in October, 2015 after she reported returning to work, and it correctly used the employer's estimated work hours in making the determination.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 11th day of December, 2015

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 11, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability